

OCT 9 4 2005

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter

of

Duane A. Iles, R.P.H.
Kansas License No. 1-09085

Case No. 05-37

PROPOSED DEFAULT ORDER
(Pursuant to K.S.A. 77-520)

Now on this 20th day of September, 2005, the above-referenced matter comes on for hearing before the Kansas Board of Pharmacy, assisted by general counsel Camille Nohe, Assistant Attorney General (Legal Opinions and Governmental Counsel Division). Randall J. Forbes of Frieden, Haynes & Forbes appears as disciplinary counsel for the Board. Respondent Duane A. Iles does not appear in person or through counsel.

Procedural History of Case

A Petition to Revoke, Suspend or Otherwise Limit Licensure was served on Respondent on September 7, 2005, which followed a Notice of Administrative Proceeding served on Respondent on September 6, 2005, indicating the matter was set for hearing on September 20, 2005.

On September 9, 2005, the Board's Executive Director, Debra Billingsley, received a letter from Respondent that he was ceasing operations effective September 15, 2005 and that he would send all permits to her immediately after that date. The Board deems this letter to be an offer by Respondent to surrender his license.

Findings of Fact

1. On multiple occasions, Respondent has provided controlled substances to

individuals who did not have a valid prescription for the drugs. When confronted with the conduct, the Respondent failed to demonstrate an appreciation of the seriousness of his actions. See Board Exhibit #1, report by James Kinderknecht, Pharmacy Inspector.

2. Respondent does not have the patient or prescription records required by the Pharmacy Law. See Board Exhibit #1, report by James Kinderknecht, Pharmacy Inspector.

3. Respondent has a significant amount of controlled substances missing from his pharmacy inventory for which he has no explanation. See Board Exhibit #1, report by James Kinderknecht, Pharmacy Inspector.

4. The Board does not accept Respondent's offer of surrender of his pharmacist license.

Conclusions of Law

Count I

Respondent has committed an act or acts, including the conduct identified above that justifies disciplinary action against his license pursuant to K.S.A. 1627(a)(3) as defined at K.S.A. 65-1626(ee)(3) in that he has engaged in a pattern of behavior that demonstrates a manifest incapacity or incompetence to practice pharmacy.

Count II

Respondent has committed an act or acts that justify disciplinary action against his license pursuant to K.S.A. 65-1627(a)(6) in that he has filled prescriptions not in strict accordance with the directions of a practitioner or mid-level practitioner.

Count III


Respondent has committed an act or acts that justify disciplinary action against his license pursuant to K.S.A. 65-1627(a)(8) in that he has failed to maintain pharmacy records as required by the Pharmacy Act and regulations of the Board.

ORDER

IT IS THEREFORE ORDERED by the Kansas Board of Pharmacy that:

1. Respondent's License # 1-09085 are hereby revoked;
2. Respondent is assessed the following administrative fines:
 - (a) \$5,000.00 for Count I,
 - (b) \$5,000.00 for Count II, and
 - (c) \$5,000.00 for Count III.
3. Any successful application for reinstatement that Respondent might make in the future is conditioned on Respondent's payment in full of the administrative fines.

IT IS SO ORDERED.



Merlin McFarland
President, Kansas Board of Pharmacy

Notice Regarding Relief from This Order

This is a Proposed Default Order issued pursuant to K.S.A. 77-520. It becomes effective without further notice or proceedings unless vacated by the Board. Within seven days of the date indicated in the below Certificate of Service, a party may file a written motion requesting that the Proposed Default Order be vacated and stating the grounds or reasons relied upon. Filing a motion does not, by itself, vacate this Proposed Default Order.

Certificate of Service

This is to certify that on the 4th day ~~September~~ October, 2005, a true and correct copy of the above PROPOSED DEFAULT ORDER was deposited in the U.S. mail, first class postage prepaid, addressed to:

Duane A. Iles
P.O. Box 98
Blue Rapids, Kansas 66411-0098

and

Randall J. Forbes
Frieden, Haynes & Forbes
555 S. Kansas Avenue, Suite 303
P.O. Box 639
Topeka, Kansas 66601-0639

Debra L. Billingsley
Executive Secretary